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STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE WASHINGTON STATE GAMBLING COMMISSION

GAMBLING COMMISSION
COMM & LEGAL DEPT

In the Matter of the Suspension or
Revocation of the Certification to
Conduct Gambling Activities of

Victoria Curtis
Spokane Valley, Washington,

Licensee.

Docket No. 2011-GMB-0029
No. CR 2011-00544

INITIAL ORDER

Administrative Law Judge John M. Gray conducted an administrative hearing in this matter on September 21, 2011, at the Gambling Commission Office, 4565 7th Avenue SE, Lacey, Washington. Notice of this hearing was previously issued on July 22, 2011, and served on the parties and on the Office of Administrative Hearings by mail on July 22, 2011.

Brian Considine, Assistant Attorney General, appeared and represented the Washington State Gambling Commission ("Commission"). Special Agents Julie Sullivan and Eric Gural testified on behalf of the Commission. The Commission offered exhibits 1 through 10 at the hearing, which were admitted without objection.

Victoria Curtis. ("Ms. Curtis" or "the licensee") appeared representing herself. Ms. Curtis offered no exhibits.

Having considered the entire record, the undersigned Administrative Law Judge enters the following Findings of Fact, Conclusions of Law, and Initial Order.

Procedural History:

On June 8, 2011, the Commission issued a Notice of Administrative Charges and Opportunity for an Adjudicative Hearing ("Notice"). The Commission served the Notice on the licensee on June 8, 2011, by regular and certified United States mail. The Commission received the licensee's Request for Administrative Hearing on June 27, 2011. On July 22, 2011, The Commission issued the Notice of Hearing setting this case to be heard on August 17, 2011, in the Commission's Hearing Room at 4565 7th Avenue SE in Lacey, Washington. The Commission served the Notice of Hearing on the parties by mail on July 22, 2011. On July 27, 2011, the Commission issued an Amended Notice of Hearing postponing the hearing until 1:00 PM on Wednesday, September 21, 2011, at the same location. The Commission stated the underlying facts for its action against the licensee to be Ms. Curtis's failure to disclose her arrests and convictions for theft and forgery, which, although later dismissed, were not dismissed until after Ms. Curtis completed her deferral. The Commission considers those convictions to be "conviction data" and the basis for revoking her license.

The administrative hearing on the merits was held on September 21, 2011. The Commission urges the revocation of the licensee's gambling license for violations of RCW 9.46.075(1), (2), (3), (4), (8), (10), 9.46.153(1); and WAC 230-03-085(1) and (8).

The undersigned Administrative Law Judge, having considered the evidence, now enters the following Findings of Facts:

FINDINGS OF FACT

1. Victoria Curtis holds a public card room employee License. The license number is 68-30352.
2. On January 7, 2011, Ms. Curtis filed a public card room employee license application with the Commission. In the section marked "Criminal History Statement," Ms. Curtis answered "yes" to the question in response to the six questions listed: "Have you ever (1) forfeited bail or paid a fine over \$25 (incl. traffic fines; (2) been arrested; (3) been charged with a crime; (4) been convicted; (5) been jailed; (6) been placed on probation?" She attached a report for the section that asked for details. The attachment was a copy of her Defendant Case History ("DCH") obtained through the Judicial Information System ("JIS") and dated December 22, 2010.
3. Ms. Curtis's DCH disclosed multiple offenses, including charges for Theft 2, Theft 3, and Forgery, all three of which showed a disposition of dismissed.
4. Based on this information, the Commission approved Ms. Curtis's application and issued her the public employee card room license without further review from a Special Agent in the Criminal History Investigations Unit.
5. Julie Sullivan is a Special Agent employed by the Commission and assigned to the Criminal History Division. She has ten years of experience working at the Commission. For the last five years, she has worked as a Special Agent in the Criminal History Investigation Unit. Part of her job is to examine current licenses to determine if the licensees continue to qualify to hold their licenses. Previously, she

worked in other units in the Commission. She has received training from the Washington State Criminal Justice Training Commission, the FBI, and the DEA.

6. In 2011, Special Agent Sullivan received a tip that Ms. Curtis may have been convicted of a gambling related crime. She began an investigation.

7. Special Agent Sullivan found that the claimant had submitted a DCH with her license application. The DCH disclosed that the State of Washington had charged Ms. Curtis with 12 offenses since 1991, none of them pertinent here except for three charges: theft in the third degree, theft in the second degree, and forgery, all filed in 2006. The disposition of those three charges in the DCH all showed "D," for "dismissed."

8. Investigating further, Special Agent Sullivan found and reviewed a case report filed by Special Agent Eric Gural in 2006, CR 2006-01931. Special Agent Gural found that Ms. Curtis had conspired with co-workers at her place of employment, the Brass Faucet Bar & Grill in Spokane County, Washington, to steal from the employer's pull tab games. After being discovered and investigated, the State of Washington charged Ms. Curtis with theft in the second degree and forgery. Both charges are class C felonies.

9. The State of Washington amended the second degree theft charge to a third degree theft charge, the latter being a gross misdemeanor. Exhibit 6.

10. Ms. Curtis pleaded guilty on March 28, 2007, to the charge of theft in the third degree. The Court sentenced Ms. Curtis to 360 days imprisonment, imposed a

\$5,000 fine, and suspended all of the imprisonment and the fine during a 12 month probation. Exhibit 7.

11. Also on March 28, 2007, the State of Washington dismissed both the second degree theft and forgery charges. Exhibit 9.

12. On March 28, 2008, the District Court found that Ms. Curtis had successfully completed the deferred prosecution program and found good cause to dismiss the charge of third degree theft.

13. Ms. Curtis did not disclose, in her license application, that she had pleaded guilty to theft in the third degree and forgery, had been on probation for one year after her guilty plea, and that only later were those charges dismissed.

14. Based on Special Agent Sullivan's report, CR 2011-00544, the Commission began proceedings to revoke Ms. Curtis's public card room license.

CONCLUSIONS OF LAW

1. The Office of Administrative Hearings has jurisdiction over the persons and subject matter of this case pursuant to RCW 9.46.140, Chapter 34.05 RCW, and Title 230 WAC.

2. Ms. Curtis holds a public card room employee license and is subject to RCW 9.46.075 and WAC 230-03-085.

3. The Commission has the broad purpose of protecting the public by insuring that those activities authorized by Ch. 9.46 RCW do not maliciously affect the public and do not breach the peace. RCW 9.46.010.

4. The public policy of the state of Washington on gambling is to keep the criminal element out of gambling and to promote the social welfare of the people by limiting the nature and scope of gambling activities by strict regulation and control. The Commission is required to closely control all factors incident to the activities authorized in Ch. 9.46 RCW, and the provisions of Ch. 9.46 RCW are to be liberally construed to achieve those ends. RCW 9.46.010.

5. RCW 9.46.075(1) provides that the Commission may suspend or revoke any license or permit issued by it, for any reason or reasons it deems to be in the public interest, including failing to comply with chapter 9.46 RCW and Title 230 WAC, and including failing to prove by clear and convincing evidence that he is qualified in accordance with the provisions of chapter 9.46 RCW.

6. RCW 9.46.075(2) provides that the Commission may suspend or revoke any license or permit issued by it, for any reason or reasons it deems to be in the public interest, including cases where the applicant or licensee knowingly causes, aids, abets, or conspires with another to cause, any person to violate any of the laws of this state or the rules of the commission.

7. RCW 9.46.075(3) provides that the Commission may suspend or revoke any license or permit issued by it, for any reason or reasons it deems to be in the public interest, including instances where the licensee has obtained a license or permit by fraud, misrepresentation, concealment, or though inadvertence or mistake.

8. RCW 9.46.075(4) provides that the Commission may suspend or revoke any license or permit issued by it, for any reason or reasons it deems to be in the public

interest, including where the licensee has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, or filing false reports therewith, or of any similar offense or offenses, or of bribing or otherwise unlawfully influencing a public official or employee of any state or the United States, or of any crime, whether a felony or misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude.

9. RCW 9.46.075(8) provides that the Commission may suspend or revoke any license or permit issued by it, for any reason or reasons it deems to be in the public interest, including where the licensee fails to prove, by clear and convincing evidence, that he, she or it is qualified in accordance with the provisions of [chapter 9.46 RCW].

10. RCW 9.46.075(10) provides that the Commission may suspend or revoke any license or permit issued by it, for any reason or reasons it deems to be in the public interest, including instances where the licensee has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal or civil public policy of this state if such pursuit creates probable cause to believe that the participation of such person in gambling or related activities would be inimical to the proper operation of an authorized gambling or related activity in this state. For the purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain.

11. RCW 9.46.153(1) provides that it shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter, as well as the qualifications of the facility in which the licensed activity will be conducted.

12. WAC 230-03-085(1) provides that the Commission may suspend or revoke any license or permit when the licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075.

13. WAC 230-03-085(8) provides that the Commission may suspend or revoke any license or permit when the licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by (a) prior activities; or (b) criminal record; or (c) reputation; or (d) habits; or (e) associations.

14. I conclude that the Commission has proved by a preponderance of the evidence that Ms. Curtis violated the statutes and administrative rules cited above when she applied for a public card room license, but did not disclose to the Commission that she had actually been convicted of third degree theft and forgery. Although she answered "yes" to the criminal history question, her answer did not fully disclose the full facts of her criminal history, and neither did her attached DCH. Those convictions

occurred before those same charges were dismissed after she had successfully completed one year of probation. The facts that she had been convicted of crimes, and that those crimes related to theft from pull tab games, an activity regulated by the Commission, were fact that directly related to her qualifications for licensing by the Commission. Those facts were material to the Commission's decision to approve or deny her application.

15. The application asked Ms. Curtis if she had ever been arrested, charged with a crime, and convicted of a crime. The DCH that she attached to the application showed only that the charges of theft in the second degree, theft in the third degree, and forgery had been dismissed. Unless the reader knew, or investigated further, the reader would conclude that the charges had simply been dismissed, based only on the DCH.

16. I conclude that the Commission relied on the DCH when it decided to issue the public card room license to Ms. Curtis. This situation is expressly addressed by RCW 9.46.075(3), which provides that the Commission may suspend or revoke any license or permit issued by it where the licensee has obtained a license or permit by fraud, misrepresentation, concealment, or through inadvertence or mistake

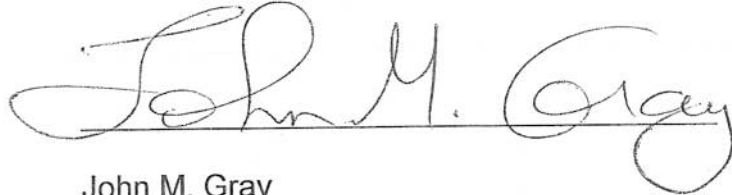
17. I conclude that the Commission has met its burden of proving by a preponderance of the evidence that Ms. Curtis's license should be revoked.

From the foregoing conclusions of law, NOW THEREFORE:

INITIAL ORDER

IT IS HEREBY ORDERED That the Ms. Curtis's public card room license, number 68-30352, is hereby REVOKED.

DATED at Olympia, Washington, this 27th day of October 2011.

A handwritten signature in cursive script, reading "John M. Gray", written in black ink.

John M. Gray
Administrative Law Judge
Office of Administrative Hearings

NOTICE TO THE PARTIES

Initial orders must be entered in accordance with RCW 34.05.461(3). WAC 230-17-085(1). Section 5(e) and (n) of the Compact may also apply. An initial order becomes the final order unless a party files a petition for review of the initial order as explained in WAC 230-17-090. WAC 230-17-085(2). RCW 34.05.464 governs the review of initial orders. WAC 230-17-090(1). Any party to an adjudicative proceeding may file a petition for review of an initial order. Parties must file the petition for review with us within twenty days of the date of service of the initial order unless otherwise stated. Parties must serve copies of the petition to all other parties or their representatives at the time the petition for review is filed. WAC 230-17-090(2). Petitions must specify the portions of the initial order the parties disagree with and refer to the evidence in the record on which they rely to support their petition. WAC 230-17-090(3). Any party to an adjudicative proceeding may file a reply to a petition for review of an initial order. Parties must file the reply with us within thirty days of the date of service of the petition and must serve copies of the reply to all other parties or their representatives at the time the reply is filed. WAC 230-17-090(4). Any party may file a cross appeal. Parties must file cross appeals with us within ten days of the date the petition for review was filed with us. WAC 230-17-090(5). Copies of the petition or the cross appeal must be served on all other parties or their representatives at the time the petition or appeal is filed. WAC 230-17-090(6). After we receive the petition or appeal, the commissioners review it at a regularly scheduled commission meeting within one hundred twenty days and make a final order. WAC 230-17-090(7).

Certificate of Service – OAH Docket No. 2011-GMB-0029

I certify that true copies of this document were served from Olympia, Washington on the following as indicated.

Address: Victoria Curtis PO Box 1828 Veradale, WA 99037	First Class Mail, Postage Prepaid
Address: Brian Considine Assistant Attorney General Office of the Attorney General PO Box 40100 Olympia, WA 98504	First Class Mail, Postage Prepaid
Address: Washington State Gambling Commission PO Box 42400 Olympia, WA 98504-2400	First Class Mail, Postage Prepaid
Address:	
Address:	
Address:	

Dated: October 27, 2011


Margaret Simmons
Office of Administrative Hearings